

**Minutes of the Seventeenth Regular Meeting  
For the Twenty-Sixth Highland Town Council  
Monday, September 22, 2008**

*Study Session.* The Twenty-Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, September 22, 2008 at 6:30 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Dan Vassar, and Konnie Kuiper were present. Councilor Brian Novak was absent owing to work commitment. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

**General Substance of Matters Discussed.**

1. The Town Council discussed the agenda of the imminent meeting.

The study session ended at 6:55 O'clock p.m.

*Regular Meeting.* The Twenty Fifth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, September 22, 2008 at 7:00 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President Bernie Zemen presided and the Town Clerk-Treasurer was present to memorialize the proceedings.

The session was opened with Town Council President Zemen leading the pledge of allegiance to the United States Flag and the Rev. Arthur Burkman offering a prayer.

**Roll Call:** Present on roll call were Councilors Bernie Zemen, Mark Herak, Dan Vassar, and Konnie Kuiper. Councilor Brian Novak was absent owing to work. The Town Clerk-Treasurer Michael Griffin was present. A quorum was attained.

**Additional Officials Present:** Rhett L. Tauber, Attorney at Law; John M. Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; Alex M. Brown, CPRP; William R. Timmer, CFOD, Fire Chief; Kenneth J. Mika, Building Commissioner; and Cecile Petro, Redevelopment Director.

Dennis Tobin of the Park and Recreation Board; Karen Ziants, Lisa Gauthier and Laurel Roach of the Community Events Commission were present.

**Minutes of the Previous Session**

The minutes of the regular meeting of September 08, 2008 were approved by general consent.

**Special Orders:**

1. *Action to approve form of Agenda.* Councilor Kuiper moved to approve the current form of the agenda as prepared. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The agenda form was approved.
2. **Public Hearing:** Proposed Additional Appropriations in Excess of the 2008 Budgets in the **Corporation Capital Fund**, financed from the proceeds of the proposed Corporation Bonds

of 2008 of the Town of Highland in the bond size amount not to exceed \$1,900,000, but totaling \$3, 245,328.

- (a) Attorney verification of Proofs of Publication: The Town Council Attorney verified that the proofs of publication were in compliance with IC 5-3-1. (The TIMES 11 September 2008.)
- (b) Public Hearing. The Town Council President called the public hearing to order. The following persons were present and heard:

1. Joseph Wszolek, 3731-42<sup>nd</sup> Place, Highland, Inquired which roads had been identified for resurfacing financed by the bond appropriation being considered.

Mr. Wszolek further inquired about the amount of reduction plans that had been discussed by the Town Council for reducing the width of LaPorte Street.

2. Mary Zuffa, 9522 Anthony Place, Highland, complained about what she perceived to be drainage discharge from her neighbors into her yard.

The hearing was closed.

- (c) Action on **Appropriation Enactment No. 2008-39**: An Enactment Appropriating Additional Moneys in Excess of the 2008 Budget in the **Corporation Capital Fund**, financed from the proceeds of the proposed Corporation Bonds of 2008 of the Town of Highland in the bond size amount not to exceed \$1,900,000, but totaling \$3, 245,328. Councilor Herak introduced and moved the consideration of the Enactment at the same meeting of introduction. Councilor Vassar seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negative. The motion passed. The Enactment could be considered.

Councilor Herak moved the passage and adoption of the Enactment at the same meeting of introduction. Councilor Kuiper seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negative. The motion passed. The Enactment was adopted.

**TOWN OF HIGHLAND  
APPROPRIATION ENACTMENT  
ENACTMENT NO. 2008-39**

**AN ENACTMENT APPROPRIATING ADDITIONAL MONEYS IN EXCESS OF THE ANNUAL BUDGET FOR THE CORPORATION CAPITAL FUND, PURSUANT TO I.C. 6-1.1-18, I.C. 36-5-3-5, ET SEQ.**

**WHEREAS**, Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Corporation Capital Fund**;

**WHEREAS**, It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levies set under I.C. 6-1.1-17, all pursuant to I.C. 36-5-3-5;

**NOW, THEREFORE BE IT ENACTED** by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the funds herein named and for the purposes herein specified, subject to the laws governing the same:

**CORPORATION CAPITAL FUND:**

Increase Acct. # 3xx.xx Construction Engineering:	\$ 1,100,346.00
Increase Acct. # 3xx.xx Bond Legal Services	\$ 16,500.00
Increase Acct. # 3xx.xx Bond Sale Advisor Services	\$ 10,000.00

Increase Acct. # 3xx.xx Publications & Printing:	\$ 1,000.00
Increase Acct. # 3xx.xx Const. Engin. Contingency:	\$ 55,017.00
Total 300 Series Increases:	\$ 1,182,863.00
Increase Acct. # 4xx.xx Kennedy Ave Reconstruction	\$ 1,467,128.00
Increase Acct. # 4xx.xx Kennedy Ave Reconst. Contingency:	\$ 73,356.00
Subtotal:	\$ 1,540,484.00
Increase Acct. # 4xx.xx Local roads resurfacing:	\$ 552,500.00
Subtotal:	\$ 552,500.00
Total 400 Series Increases:	\$ 2,062,985.00
Total Proposed Additional for the Fund:	\$ 3,245,848.00

**Section 2.** That forgoing appropriations are in support of two projects: (1) Kennedy Avenue Reconstruction and Improvement, in the net amount of \$1,769,057, (i.e. \$2,693,348 minus \$924,291 in Federal Highway grant reimbursement) and \$552,500 for resurfacing of public ways throughout Town.

**Section 3.** That the Clerk-Treasurer is hereby authorized and instructed to inform the Department of Local Government Finance of this action and that these monies be made available for expenditure pursuant to I.C. 6-1.1-18.

**Section 4.** That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 22<sup>nd</sup> Day of September 2008. Consideration on the same day or at same meeting of introduction sustained a vote of 4 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED AND ADOPTED** this 22<sup>nd</sup> Day of September 2008, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA

Bernie Zemen, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**3. Public Hearing: Proposed Additional Appropriations in Excess of the 2008 Budgets in the Local Seized Asset and Forfeiture Fund**

- (a) Attorney verification of Proofs of Publication: The Town Attorney verified that the proofs of publication were in compliance with IC 5-3-1. (The TIMES 11 September 2008.)
- (b) Public Hearing. The Town Council President called the public hearing to order. There were no comments written or spoken. The hearing was closed.
- (c) Action on **Appropriation Enactment No. 2008-40**: An Enactment Appropriating Additional Moneys in Excess of the 2008 Budget in the **Local Seized Asset and Forfeiture Fund**. Councilor Herak introduced and moved the consideration of the Enactment at the same meeting of introduction. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negative. The motion passed. The Enactment could be considered.

Councilor Herak moved the passage and adoption of the Enactment at the same meeting of introduction. Councilor Vassar seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negative. The motion passed. The Enactment was adopted.

TOWN OF HIGHLAND  
APPROPRIATION ENACTMENT  
ENACTMENT NO. 2008-40

AN ENACTMENT APPROPRIATING ADDITIONAL MONEYS IN EXCESS OF THE ANNUAL BUDGET FOR THE LOCAL SEIZED ASSET AND FORFEITURE FUND, PURSUANT TO I.C. 6-1.1-18, I.C. 36-5-3-5, ET SEQ.

WHEREAS, Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Local Seized Asset and Forfeiture Fund**;

WHEREAS, It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levies set under I.C. 6-1.1-17, all pursuant to I.C. 36-5-3-5;

NOW, THEREFORE BE IT ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the funds herein named and for the purposes herein specified, subject to the laws governing the same:

LOCAL SEIZED ASSET AND FORFEITURE FUND:

Increase Account # 4xx.xx Other equipment:	\$ 4,660.58
Increase Account # 4xx.xx Furniture (Tables & Chairs):	\$ 4,088.00
Total 400 Series Increases:	\$ 8,748.58
<b>Total Proposed Additional for the Fund:</b>	<b><u>\$ 8,748.58</u></b>

**Section 2.** That the Clerk-Treasurer is hereby authorized and instructed to inform the Department of Local Government Finance of this action and that these monies be made available for expenditure pursuant to I.C. 6-1.1-18.

**Section 3.** That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 22<sup>nd</sup> Day of September 2008. Consideration on the same day or at same meeting of introduction sustained a vote of 4 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 22<sup>nd</sup> Day of September 2008, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA

Bernie Zemen, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**Unfinished Business and General Orders:**

- Proposed Ordinance No. 1406:** An Ordinance Amending the Highland Municipal Code by Amending Chapter 130 to Prohibit the Furnishing and consumption of Alcoholic Beverages in Municipal Buildings, on Municipal realty, and all public ways and easements, all Pursuant to IC 36-1-3, IC 36-1-4, IC 36-8 and IC 36-9 et Seq. At its meeting of September 8, 2008, the Town Council instructed that the proper steps be taken to prohibit the furnishing and consumption of alcohol on municipal properties, public ways, easements, and buildings. This ordinance was drafted in consequence of that action. Councilor Vassar introduced and filed Ordinance No. 1406. There was no further action.
- Proposed Ordinance No. 1407:** An Ordinance revising and Amending Section 30.23 of the Highland municipal Code regarding the form of the meeting Agenda and Declaring an Emergency, all pursuant to IC 36-1-5 et seq. Councilor Vassar introduced and moved the

consideration of Ordinance No. 1407 at the same meeting of introduction. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The Ordinance could be considered.

Councilor Vassar moved the passage and adoption of Ordinance No. 1407 at the same meeting of introduction. Councilor Kuiper seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The Ordinance was adopted.

**ORDINANCE No. 1407**  
**of the**  
**TOWN of HIGHLAND, INDIANA**

**AN ORDINANCE REVISING AND AMENDING SECTION 30.23 OF THE HIGHLAND MUNICIPAL CODE REGARDING THE AGENDA and DECLARING an EMERGENCY, ALL PURSUANT TO IC 36-1-5 ET SEQ.**

**WHEREAS**, Title 36, Article 1, Chapter 5 of the Indiana Code provides that the legislative body of a unit shall codify, revise, rearrange, or compile the ordinances of the unit into a complete, simplified code excluding formal parts of the ordinances

**WHEREAS**, The legislative body of the this unit, the Town of Highland, is the Town Council, pursuant to IC 36-1-2-9(5) and IC 36-5-2-2;

**WHEREAS**, The Town Council, is persuaded that it is necessary to make certain technical corrections to the current code of ordinances in order to further perfect the operation of the municipally and to advance the public interest; and

**WHEREAS**, The Indiana Code further provides under IC 36-1-4 for the general powers of units to provide for the operation of a government;

**WHEREAS**, The Indiana Code still further provides under IC 36-1-3 certain powers granted expressly by statute and powers deemed necessary or desirable in the conduct of municipal affairs;

**WHEREAS**, The Town Council determines that certain technical corrections and enhancements to certain provisions of the Highland Code of Ordinances to be necessary or desirable in the conduct of municipal affairs and consistent with the laws of the state governing the operation of a government;

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY** the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That § 30.23 of the Highland Municipal Code be hereby deleted and repealed and be hereby amended by inserting the following replacement section, to be styled §30.23, which shall read as follows:

**§ 30.23 AGENDA.**

(A) The Town Council, when utilizing an agenda, shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. A rule, regulation, ordinance, or other final action adopted by reference to agenda number or item alone is void. (I.C. 5-14-1.5-4(a))

(B) The agenda of the Town Council regular meeting shall possess the following elements:

1. The agenda shall describe whether or not the meeting is a regular, special or adjourned meeting.
2. It shall state the date, day, year and time of the meeting.
3. Its shall include the names of the members of the Town Council, listed in ward order.

(C) The agenda of the Town Council regular meeting shall possess the following orders of business as may be applicable:

1. **Opening ceremony or exercises.** This item of business may include posting of colors, pledge of allegiance and any other element that the Town Council may determine appropriate.
2. **Roll call** and ascertainment of quorum. This item of business shall be conducted by a formal roll call conducted by the reading aloud of Town Council names in ward order. It may be conducted as a silent roll call as well.
3. **Action on minutes** of previous meeting(s). Minutes shall not be read aloud before action, unless the Town Council so directs. The Town Council may approve minutes by general consent.

4. **Special Orders.** This item of business may include such matters as may require public hearings, administration of oaths of office, special presentations, matters that require action at a particular meeting, and such things as may be made special orders as parliamentary practice or the proper officers may determine appropriate.
  5. **Communications.** This item of business involves the reading of letters, petitions, or memos that may be transmitted to the Town Council and may include taking action on matters raised in the communications as may be appropriate or desirable.
  6. **Receipt of Staff reports.** This item of business shall include receipt of the monthly reports from or regarding the activities of the Building and Inspection Department, the Fire Department, Work Place Safety, and such reports as may from time to time be deemed necessary or desirable.
  7. **Appointments.** This item of business involves the making of appointments to various boards and commissions as Indiana law or ordinances of the Town may from time to time require. When listing items, the agenda should distinguish appointments that are made by the Town Executive from those that are made by the Town Council as legislative or fiscal body of the Town.
  8. **Unfinished business and General Orders.** This item of business involves matters that may have been introduced in a previous meeting but unfinished and such matters as may be placed before the Town Council for its consideration, such as ordinances, resolutions, orders and other matters deemed appropriate under Indiana law, ordinances, and parliamentary practice.
  9. **New Business.** This item of business is confined to announcements of intention to bring a future action, or requests for the preparation of legislative work product for future consideration. No ordinances, resolutions, or orders may be brought before the Town Council without the unanimous vote of the members present. In no instance may a matter for final action be taken up under this item of business.
  10. **Comments from Town Council membership (Good of the Order).** This item of business is to permit members of the legislative body to offer such comments, informal observations or remarks that each councilor may deem appropriate, desirable or as likely to promote the general welfare, or the good of the order. Councilors shall be recognized by the presiding officer before speaking. Councilors may be recognized to speak in ward order with the Town Council President allowed to speak last.
  11. **Comments from the Public or Visitors.** This item of business is to permit persons to address the Town Council. Persons wishing to speak should be recognized by the presiding officer before speaking. Depending on the nature of the comments, the Town Council may direct the staff to address the topic or follow-up on matters that may arise from public comments. If necessary, the matter may be set for action at a future meeting. Persons addressing the Town Council are requested to limit their presentations to **two (2) minutes** and encouraged to avoid repetitious comments.
  12. **Consideration of Accounts Payable Vouchers.** This item of business is to allow the Town Council to consider and take action on accounts payable vouchers filed according to the provisions of IC 5-11-10 et seq., and IC 36-5-4 et seq.
  13. **Adjournment.** At the conclusion of all items of business, the Town Council President may declare the meeting adjourned or he may seek a motion from the Town Council for adjournment. This item of business should be understood according to parliamentary authority.
- (D) The agenda of any Town Council special meeting shall possess the preceding orders of business as may be applicable.
- (E) The agenda of any regular or special meeting shall be prepared by the Clerk-Treasurer. The Town Council President shall review and may approve matters for placement on the agenda. The agenda prepared according to this section shall be deemed to be fixed and will not require further action by the Town Council. The agenda may be amended by a two-thirds vote of the entire Town Council.
- (F) The Clerk-Treasurer is authorized to establish filing deadlines for matters to be placed on the agenda of a particular meeting. The Town Council shall reserve the authority to modify any deadline except where filing is governed by law.

**Section 2.** That this ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provide by law.

Introduced and Filed on the 22<sup>nd</sup> day of September 2008. Consideration on same day or at same meeting of introduction attained 4 votes in favor and 0 votes opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 22<sup>nd</sup> Day of October 2008, by the Town Council of the Town of Highland, Lake County, Indiana, having been (passed/ failed) by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

3. **Proposed Ordinance No. 1408:** An Ordinance to Amend and Re-Establish the Rainy Day Fund of the Town of Highland, pursuant to IC 36-1-8-5.1. *The proposed amendment seeks to make clarifying corrections to the terms of the existing ordinance and to expand permissible uses of the fund to include payment of insurance deductibles (as provided in the strategic plan) and settlements or damages in consequence of a legal cause of action.* Councilor Herak introduced and moved the consideration of Ordinance No. 1408 at the same meeting of introduction. Councilor Vassar seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The Ordinance could be considered.

Councilor Herak moved the passage and adoption of Ordinance No. 1408 at the same meeting of introduction. Councilor Kuiper seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The Ordinance was adopted.

ORDINANCE NO. 1408  
of the  
TOWN of HIGHLAND, INDIANA

AN ORDINANCE TO AMEND AND RE-ESTABLISH THE RAINY DAY FUND OF THE TOWN OF  
HIGHLAND, PURSUANT TO IC 36-1-8-5.1

WHEREAS, The Town Council is the fiscal body of the Town of Highland;

WHEREAS, IC 36-1-8-5.1 enables municipalities to establish a Rainy Day Fund whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund; and,

WHEREAS, IC 36-1-8-5.1 enables municipalities to establish a Rainy Day Fund by the adoption of an ordinance specifying the purposes of the fund and the sources of funding for the fund; and,

WHEREAS, IC 36-1-8-5.1(f) provides that the state department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the Rainy Day Fund of the political subdivision; and,

WHEREAS, IC 36-5-2-9 provides that the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

WHEREAS, IC 36-1-3-4 provides that the powers units have under IC 36-1-3-4(b)(1) are listed in various statutes, further noting that these statutes do not list the powers that units have under IC 36-1-3-4 (b)(2); therefore, the omission of a power from such a list does not imply that units lack that power; and

WHEREAS, IC 36-1-3-4 further provides that a unit has all powers granted it by statute as well as all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute;

WHEREAS, The Town Council has determined that it would be desirable to establish a rainy day fund and to allow the fund to be used for all the lawful purposes set forth in IC 36-1-8-5; and

WHEREAS, The Town Council has determined that it is necessary, desirable and of great public benefit, to establish the fund herein referenced to support and carryout the lawful public purposes of the municipality; and

WHEREAS, It would be and is in the best interest of the Town of Highland to enact an ordinance as an amendment to the Highland Municipal Code in order to further perfect the operation of the Town;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** The Highland Municipal Code is hereby amended by adding a new Chapter to be numbered \_\_\_\_ and to be entitled: Rainy Day Fund, which shall read as follows:

RAINY DAY FUND

**§ XXX.01 ESTABLISHMENT**

(A) There is hereby authorized, created and established a fund of the Town of Highland, to be called the Rainy Day Fund, pursuant to IC 36-1-8-5.1 et seq.

(B) The Rainy Day Fund is dedicated and established for accumulating funds to provide resources to support lawful purposes of the municipality, including meeting exigencies as herein may be defined and such other purposes permitted by IC 36-1-8-5.1 and as are identified in this subchapter.

(C) The sources of funding for the Rainy Day Fund may include the following:

1. Unused and unencumbered funds transferred pursuant to and identified in IC 36-1-8-5; IC 6-3.5-1.1-21.1; IC 6-3.5-6-17.3; or IC 6-3.5-7-17.3.
2. Interest earned from the investment of moneys on deposit to the credit of the fund, provided such investments are conducted pursuant to I.C. 5-13-9 et seq.;
3. An appropriation in the annual budget in the several funds of the municipality as maybe identified and approved by the Town Council, and then transferred to the Rainy Day Fund, subject to the provision of IC 36-1-8-5.1(d);
4. Unreserved, undesignated fund balance in the several funds of the municipality, as maybe identified and approved by the Town Council, and then transferred to the Rainy Day Fund, subject to the provision of IC 36-1-8-5.1(d); and

(D) The Rainy Day Fund is subject to the same appropriation process as other funds of the municipality that receive tax money.

(E) In any fiscal year, the Town Council may transfer not more than ten percent (10%) of the town's total annual budget for that fiscal year, adopted under IC 6-1.1-17, to the Rainy Day Fund as authorized by IC 36-1-8-5.1.

(F) The Rainy Day Fund is established until such time as the fund is repealed or rescinded by action of the Town Council.

**§ XXX.02 PURPOSES, USES and PERMISSIBLE EXPENDITURES**

(A) Expenditures from the Rainy Day Fund shall only be used for the following purposes:

1. To make temporary transfers to other funds of the town for cash flow purposes to meet debt service, payroll and monthly accounts payable when tax revenues are not received in a timely manner to mitigate interest expense on tax anticipation debt as provided in IC 36-1-8-4;
2. To pay the deductibles on insurance not already provided for in other funds of the municipality;
3. To pay monetary settlements, damages or claims in consequence of a legal cause of action;

(B) Notwithstanding IC 36-5-2-9.6, the *affirmative vote of four (4) members* of the Town Council is necessary for the following uses of the fund:

1. To pay the deductibles on insurance not already provided for in other funds of the municipality.
2. To pay monetary settlements, damages or claims in consequence of a legal cause of action.

**§ XXX.03 EXPENDITURE UPON APPROPRIATION**

Expenditures from the Rainy Day Fund may be made only upon appropriation by the fiscal body for the purpose for which the fund is specifically established, in the manner provided by statute for making other appropriations and shall be disbursed only on approved accounts payable vouchers allowed by the legislative body, all pursuant to IC 5-11-10 and IC 36-5-4.

**§ XXX.04 INVESTMENTS AUTHORIZED**

Money in the Rainy Day Fund may be invested provided that the yields from the purchase and sale of any such investments shall be deposited with the fund pursuant to IC 5-13-9 and Chapter 36 of the Highland Municipal Code.



§ XXX.05      **PRESERVATION and DISPOSITION OF FUND ASSETS**

All unused and unencumbered cash on deposit to the credit of the Rainy Day Fund does not revert to the corporation general fund nor to any other fund but shall remain with the Rainy Day Fund until such time as an ordinance is passed and adopted regarding its disposition. Notwithstanding IC 36-5-2-9.6, an ordinance abolishing and defeasing the Rainy Day Fund and authorizes a transfer of any remaining unexpended, unencumbered assets of the fund to a particular fund, must be passed by at least four (4) members of the Town Council.

**Section 2.**            That the provisions provided in Ordinance No. 1356 which particularly provide the following are still in full force and effect:

(A)            That on *or about* **January 1 2008**, the unobligated, unencumbered fund balance of the Health (Self) Insurance shall be transferred to and deposited to the credit of the **Rainy day Fund created by this Ordinance**, where it may be spent according to the provisions governing the fund; and

(B)            That the provisions provided in Ordinance No. 1356 which particularly provide that Unless otherwise provided by act of the fiscal body, on or after October 1 2008, after all the encumbered obligated fund balance of the Health (Self) Insurance is discharged, **and following an audit by the Indiana State Board of Accounts**, the Health (Self) Insurance Fund shall be defeased, abolished and repealed in its entirety;

**Section 3.**            That the fund established by Ordinance No. 1356 named the Rainy Day Fund, which exists at the time of the adoption of this ordinance, has continuity of existence. The cash on deposit to the credit of the fund established by Ordinance No. 1356 as well as all its assets and liabilities, held prior to the passage and adoption of this ordinance, remains with the fund. Further, the cash on deposit to the credit of the fund is hereby found to be an approved source of money for the fund.

**Section 4.**            That any and all such ordinances in conflict with the provisions of this ordinance, including Ordinance No. 1356, subject to Section 2 of this ordinance, are hereby repealed and are of no further force or effect. The Clerk-Treasurer shall be authorized to assign appropriate section numbers in support of the codification of the particular provisions ordinance.

**Section 5.**            This ordinance shall become and be in full force and effect from and after the date of its passage and adoption upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a).

Introduced and Filed on the 22<sup>nd</sup> day of September 2008. Consideration on same day or at same meeting of introduction attained 4 votes in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 22<sup>nd</sup> day of September 2008 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

**Bernie Zemen, President (IC 36-5-2-10)**

**ATTEST:**

**Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)**

- 4. Works Board Order No. 2008-22:** An Order of the Works Board Accepting and Approving a Proposal (Option 2), from Boender Electric to Provide and Install One (1) new 22 KW Liquid-cooled Guardian Generac Generator at the Highland Municipal Building for the total Amount of \$14,248.00. Councilor Vassar moved the passage and adoption of Works Board Order No. 2008-22. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The Order was adopted.

Prior to the roll call a colloquy ensued between Councilor Herak and the Public Works Director regarding the rationale for purchasing a generator for the current Town Hall noting that the current one remains operative. It was noted that the current public safety back power generator for the Town Hall is not longer supported and parts are not available.

Town of Highland  
Board of Works  
Order of the Works Board No. 2008-22

**AN ORDER ACCEPTING AND APPROVING A PROPOSAL (OPTION 2), FROM BOENDER ELECTRIC TO PROVIDE AND INSTALL ONE (1) NEW 22 KW LIQUID-COOLED GUARDIAN GENERAC GENERATOR AT THE HIGHLAND MUNICIPAL BUILDING FOR THE TOTAL AMOUNT OF \$14,248.00**

**Whereas**, the Town Council for the Town of Highland has determined that the existing emergency generator servicing the Highland Municipal Building, because of its age and parts availability, needs to be replaced; and

**Whereas**, the Town Council instructed Public Works Director to secure quotes to provide and install one (1) new engine-generator at the Highland Municipal Building;

**Whereas**, Pursuant to §31.20(G) of the HMC, the Public Works Director expected that the purchase would be less than \$25,000 and invited quotes in accordance with §31.20(G) of the HMC; and

**Whereas**, the following Proposals were received:

Vendor	Boender Electric	Boender Electric	Boender Electric	Kane Electric, Inc.	Kane Electric, Inc.
	Option 1a	Option 1b	Option 2		Alternate
Manufacturer	Guardian Generac	Guardian Generac	Guardian Generac	Generac	Generac
Size (KW)	22	22	22	22	25
Location	Garage	Garage	SWC Town Hall	SWC Town Hall	SWC Town Hall
Transfer Switch	Yes	No	Yes	Yes	Yes
Fuel	Natural Gas	Natural Gas	Natural Gas	Natural Gas	Natural Gas
Cost	\$ 12,309.00	\$ 11,079.00	\$ 14,248.00	\$ 17,750.00	\$ 19,000.00

Vendor	Sargent Electric Company	Sargent Electric Company	Duane's Electric, Inc.	Duane's Electric, Inc.	Alternative Energy Solutions LTD
	Option 1	Option 2	Option 1	Option 2	Option 1
Manufacturer	?	?	Gillette Sentry Pro	Gillette Sentry Pro	Katolight
Size (KW)	13	25	16	22	25
Location	Garage	SWC Town Hall	Garage	SWC Town Hall	SWC Town Hall
Transfer Switch	Yes	Yes	Yes	Yes	Yes
Fuel	Natural Gas	Natural Gas	Natural Gas	Natural Gas	Natural Gas
Cost	\$ 17,900.00	\$ 24,660.00	\$ 14,724.20	\$ 19,057.28	\$ 24,544.00

Vendor	Alternative Energy Solutions LTD
	Option 2
Manufacturer	Katolight
Size (KW)	25
Location	Garage
Transfer Switch	Yes
Fuel	Natural Gas
Cost	\$ 35,044.00

**Whereas**, the Town Council as the Works Board of the municipality, pursuant to §31.17(A) of the HMC, serves as the Purchasing Agency for the Municipality; and

**Whereas**, the purchase price exceeds \$10,000.00 and, pursuant to §31.18(C) of the HMC requires the express approval of the purchasing agency; and

**Whereas**, the Town Council has determined that the Proposal (Option 2) of Boender Electric represents the lowest responsive and responsible proposal in the amount of \$14,248.00; and

**Whereas**, the purchase will be supported Municipal Cumulative Capital fund and there is sufficient appropriation in order to support the purchase; and

**Whereas**, the Town Council now desires to approve and authorize the Public Works Director to complete the purchase pursuant to the terms stated herein.

**Now Therefore Be it Resolved** by the Town Council of the Town of Highland, Lake County, Indiana;

**Section 1.** That the Proposal (Option 2) of Boender Electric, 1145 D Commercial Drive, Schererville, Indiana in the amount of Fourteen Thousand Two Hundred Forty-eight Dollars and 00/100 Cents (\$14,248.00) to provide and install one (1) 22 KW Generac Emergency Generator at the Highland Municipal Building is hereby accepted and approved;

**Section 2.** That the Public Works Director is authorized to execute the purchase agreement and all documents necessary to complete the purchase;

**Be it So Ordered.**

**DULY, PASSED AND ADOPTED** by the Town Council of the Town of Highland, Lake County, Indiana acting as the Works Board this 22<sup>nd</sup> day of September 2008 having passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

5. **Resolution No. 2008-41:** An Exigent Resolution Providing for the Transfer of Appropriation Balances from and among Major Budget Classifications in the Motor Vehicle Highway (MVH) Fund and in the Sanitation Department of the Corporation General Fund as Requested by the Department Head or Proper Officer and Forwarded to the Town Council for its action pursuant to IC 6-1.1-18-6. *The proper department head has requested the transfers to cover costs associated with fuel and pesticides.* Councilor Herak moved the passage and adoption of Resolution No. 2008-41. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

**TOWN of HIGHLAND  
APPROPRIATION TRANSFER RESOLUTION  
RESOLUTION NO. 2008-41**

**AN EXIGENT RESOLUTION PROVIDING for the TRANSFER of APPROPRIATION BALANCES from and AMONG MAJOR BUDGET CLASSIFICATIONS in the MOTOR VEHICLE HIGHWAY (MVH) FUND AND IN THE SANITATION DEPARTMENT OF THE CORPORATION GENERAL FUND as REQUESTED by the DEPARTMENT HEAD or PROPER OFFICER and FORWARDED to the TOWN COUNCIL for its ACTION PURSUANT TO IC 6-1.1-18-6.**

**WHEREAS**, It has been determined that certain exigent conditions have developed since adoption of the annual budget and it is now necessary to transfer certain appropriations into different categories than were appropriated in the annual budget for the various functions of the **Motor Vehicle Highway (MVH) Fund** and the **Sanitation Department in the Corporation General Fund**;

**WHEREAS**, The Town Council has been advised that the transfers could involve creation and authorization of a major expense category, for which no appropriations were approved in the current budget;

**NOW, THEREFORE BE IT RESOLVED** by the Town Council of the Town of Highland, Lake County, Indiana as follows:

**Section 1.** That for the expenses of said municipality, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes herein specified, subject to the laws governing the same, such sums herein transferred unless otherwise stipulated by law;

**Section 2.** That it has been shown that certain existing appropriations of the Motor Vehicle Highway (MVH) Fund have unobligated balances which will not be needed at this time for the purposes for which appropriated, so it will not be necessary to increase the 2008 budget, and may be transferred to a category of

appropriation not heretofore present in this department or office of the fund, but now hereby authorized and established, as follows:

MOTOR VEHICLE HIGHWAY (MVH) FUND

Reduce Account:	#390.07 Tree Service	\$ 7,667.00
	<i>Total 300 Series Reductions</i>	\$ 7,667.00
Increase Account:	#210.01 Gasoline & Oil	\$ 7,667.00
	<i>Total 200 Series Increases</i>	\$ 7,667.00
<b>Total of All Fund Decreases:</b>		<b>\$ 7,667.00</b>
<b>Total of All Fund Increases:</b>		<b>\$ 7,667.00</b>

**Section 3.** That it has been shown that certain existing appropriations of the **Sanitation Department in the Corporation General Fund** have unobligated balances which will not be needed at this time for the purposes for which appropriated, so it will not be necessary to increase the 2008 budget, and may be transferred to a category of appropriation not heretofore present in this department or office of the fund, but now hereby authorized and established, as follows:

CORPORATION GENERAL FUND

**Sanitation Department**

Reduce Account:	#380.01 Solid Waste Collection Services	\$ 2,882.00
	<i>Total 300 Series Reductions</i>	\$ 2,882.00
Increase Accounts:	#210.01 Gasoline & Oil	\$ 244.00
	#230.03 Misc. Supplies Pesticides	\$ 2,638.00
	<i>Total 200 Series Increases</i>	\$ 2,882.00
<b>Total of All Fund Decreases:</b>		<b>\$ 2,882.00</b>
<b>Total of All Fund Increases:</b>		<b>\$ 2,882.00</b>

**DULY RESOLVED and ADOPTED** this 22<sup>nd</sup> Day of September 2008 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

\_\_\_\_\_  
Bernie Zemen, President (IC 36-5-2-10)

Attest:

\_\_\_\_\_  
Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

6. **WB Order No. 2008-23:** AN ORDER of the TOWN COUNCIL AUTHORIZING and APPROVING A RELEASE and SETTLEMENT AGREEMENT , by and between MARGARET HAGERMAN, hereinafter referred to as "Hagerman", ACLU OF INDIANA, BY AND THROUGH KENNETH J. FALK, hereinafter referred to as "ACLU", and TOWN OF HIGHLAND, INDIANA. Councilor Herak moved the passage and adoption of Works Board Order No. 2008-23. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The order was adopted.

**HIGHLAND TOWN COUNCIL  
Order No. 2008-23**

**AN ORDER of the TOWN COUNCIL AUTHORIZING and APPROVING A RELEASE and SETTLEMENT AGREEMENT , by and between MARGARET HAGERMAN, hereinafter referred to as "Hagerman", ACLU OF INDIANA, BY AND THROUGH KENNETH J. FALK, hereinafter referred to as "ACLU", and TOWN OF HIGHLAND, INDIANA**

**Whereas,** The Town Council for the Town of Highland is the Legislative and Fiscal Body of the Municipality as well as the works board all pursuant to IC 36-1-2 et seq., and

**Whereas**, Margaret Hagerman has filed a Verified Complaint for Declaratory Injunctive Relief and Damages in the United States District Court, Northern District of Indiana, Hammond Division, under cause No. 2:08-cv-00252 PPS-APR, challenging the constitutionality of a Highland ordinance that prohibits residents from displaying "political signs" more than thirty (30) days prior to the election for which the sign is installed and claiming the ordinance is unconstitutional;

**Whereas**, The matters in controversy between the parties have been resolved to the satisfaction of all parties and the parties are desirous of entering into this Release and Settlement Agreement; and

**Whereas**, The Town Council now desires to conclude and settle the cause of action herein described by adopting and approving the release and settlement agreement as prepared by the Town Attorney,

**NOW, THEREFORE, BE IT HEREBY ORDERED** by the Town Council, of the Town of Highland, Lake County, Indiana:

**Section 1.** That the RELEASE and SETTLEMENT AGREEMENT made by and between **MARGARET HAGERMAN**, hereinafter referred to as "Hagerman", **ACLU OF INDIANA, BY AND THROUGH KENNETH J. FALK**, hereinafter referred to as "ACLU", and **TOWN OF HIGHLAND, INDIANA**, hereinafter referred to as "Highland", a copy of which is attached and incorporated herein by reference, is hereby accepted and approved in all respects;

**Section 2.** That the proper officers of the Town of Highland are hereby authorized to execute the release and settlement agreement approved by this order by affixing their signatures thereto, evidencing its acceptance and approval;

**Section 3.** That pursuant to IC 5-11-10 and IC 36-5-4, the Clerk-Treasurer, shall prepare an accounts payable voucher and the Town Council shall allow and approve the monetary amounts identified in the RELEASE and SETTLEMENT AGREEMENT to be paid to Hagerman and to ACLU, from the proper fund or funds of the Town.

**Be it so Ordered.**

**DULY, PASSED and ORDERED** by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 22<sup>nd</sup> day of September 2008 having passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

\_\_\_\_\_  
Bernie Zemen, President (IC 36-5-2-10)

Attest:

\_\_\_\_\_  
Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

**Exhibit A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

MARGARET HAGERMAN,	)	
	)	
Plaintiff	)	
	)	
v.	)	NO. 2:08-cv-00252 PPS-APR
	)	
TOWN OF HIGHLAND	)	
	)	
Defendant	)	

**RELEASE AND SETTLEMENT AGREEMENT**

**THIS AGREEMENT** made this \_\_\_\_ day of September, 2008, by and between **MARGARET HAGERMAN**, hereinafter referred to as "Hagerman", **ACLU OF INDIANA, BY AND THROUGH KENNETH J. FALK**, hereinafter referred to as "ACLU", and **TOWN OF HIGHLAND, INDIANA**, hereinafter referred to as "Highland".

**WITNESSETH THAT:**

**WHEREAS**, Hagerman has filed a Verified Complaint for Declaratory Injunctive Relief and Damages in the

United States District Court, Northern District of Indiana, Hammond Division, under cause No. 2:08-cv-00252 PPS-APR, challenging the constitutionality of a Highland ordinance that prohibits residents from displaying "political signs" more than thirty (30) days prior to the election for which the sign is installed and claiming the ordinance is unconstitutional; and

**WHEREAS**, the matters in controversy between the parties have been resolved to the satisfaction of all parties and the parties are desirous of entering into this Release and Settlement Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by all parties, the parties hereto agree as follows:

1. That beginning immediately, Highland will not enforce the temporal limitations in Section 214.254 of the Highland Municipal Code.

2. Highland will initiate the necessary steps and procedures to amend Section 214.254 of the Highland Municipal Code to omit all the temporal limitations, both those before and after elections. In addition, the amended ordinance will omit the size limitations on signage that is in the current Section 214.254. Section 214.254 shall continue to have restrictions as to not permitting political signs in Town parks and on Town property, and further that political signs shall not be placed on public right-of-ways, easements, parkways, phone poles or light poles. The amendment process will be completed and the amended ordinance will be in effect no later than December 1, 2008.

3. Highland shall pay to Hagerman the sum of One Hundred Dollars (\$100.00) in full and complete settlement of her damage claim in this matter.

4. Highland shall pay to ACLU the sum of Three Thousand Five Hundred Dollars (\$3,500.00) in full and complete settlement of its attorney fee claim.

5. The parties will enter into a Stipulation to Dismiss with prejudice pursuant to FRCP Rule 41(a) dismissing the pending litigation.

6. That the parties hereby mutually release and discharge each other from all claims, demands, debts, suits, actions and causes of actions, and for any damages, costs, expenses and compensations whatsoever, at law or in equity, and however arising out of or on account of, or in any way growing out of Highland's ordinance with respect to political signs and Hagerman's claim that her civil rights pursuant to 42 U.S.C. §1983 have been violated.

The parties recognize that all damages and losses may not now be fully known, and hence may be more numerous or more serious than is now understood and expected; however, the parties agree, as a further consideration, that this Release applies to all injuries, damages, losses, compensation, and expenses resulting from the aforesaid Highland ordinance, even though now unanticipated and unexpected and unknown, as well as to all damages and losses which have already developed which are now known or anticipated.

7. In consideration of the payment of the Three Thousand Five Hundred Dollars (\$3,500.00) in attorney fees, the ACLU hereby releases and discharges Highland from any further liability with regard to attorney fees in this litigation.

8. That in the event any of the parties to this Release and Settlement Agreement shall default in any of the terms and provisions hereof, and any other party initiates legal proceedings as a result of said default, the prevailing party in said litigation shall be entitled to recover his/her/its reasonable attorney fees and expenses as a result of the defaulting parties' default herein.

9. This Agreement constitutes the entire understanding between the parties related to the subject matter hereof, supersedes all prior written and/or oral agreements, and may be modified only by a separate written instrument signed by the parties hereto.

10. This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

**IN WITNESS WHEREOF**, the parties have executed this Release and Settlement Agreement the day and year first above written.

**HAGERMAN:**

\_\_\_\_\_  
MARGARET HAGERMAN

**ACLU:**

**AMERICAN CIVIL LIBERTIES UNION  
OF INDIANA**

By: \_\_\_\_\_  
KENNETH J. FALK,  
Attorney at Law

**HIGHLAND:**

**TOWN OF HIGHLAND, INDIANA**

By: \_\_\_\_\_  
BERNIE ZEMEN, President,  
Town Council

Attest:

\_\_\_\_\_  
MICHAEL W. GRIFFIN,  
Clerk-Treasurer

This instrument prepared by: Rhett L. Tauber, Esq.  
Tauber Westland & Bennett P.C.  
1415 Eagle Ridge Drive  
Schererville, Indiana 46375  
(219) 865-8400

**Exhibit B**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

MARGARET HAGERMAN,	)	
	)	
Plaintiff	)	
	)	
v.	)	NO. 2:08-cv-00252 PPS-APR
	)	
TOWN OF HIGHLAND	)	
	)	
Defendant	)	

**ORDER**

This cause coming to be heard on the parties Stipulation of Dismissal pursuant to FRCP Rule 41(a) and this Court being fully advised in the premises

IT IS HEREBY ADJUDGED, ORDERED AND DECREED that the parties' FRCP Rule 41(a)(1) Stipulation of Dismissal is granted and the instant Complaint is hereby dismissed with prejudice.

\_\_\_\_\_  
**United States District Court Judge**

ENTERED: \_\_\_\_\_

cc: Kenneth J. Falk, Esq., ACLU of Indiana, 1031 E. Washington St., Indianapolis, IN 46202  
Rhett L. Tauber, Esq., Tauber Westland & Bennett, P.C., 1415 Eagle Ridge Dr., Schererville, IN 46375

**Exhibit C**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

MARGARET HAGERMAN,	)	
	)	
Plaintiff	)	
	)	
v.	)	NO. 2:08-cv-00252 PPS-APR
	)	
TOWN OF HIGHLAND	)	

Defendant

)  
)

**FRCP RULE 41(a) STIPULATION OF DISMISSAL**

Come now plaintiff, **MARGARET HAGERMAN**, by counsel, and the defendant, **TOWN OF HIGHLAND, INDIANA**, by counsel, pursuant to FRCP Rule 41(a) and show the Court by this Stipulation all claims herein between the parties have been amicably adjusted. The parties stipulate and agree, pursuant to FRCP Rule 41(a)(1), and now move the Court to dismiss this cause of action with prejudice.

**ATTORNEY FOR PLAINTIFF:**

**ATTORNEY FOR DEFENDANT:**

**KENNETH J. FALK, ESQ., #6777-49**

ACLU of Indiana  
1031 E. Washington Street  
Indianapolis, IN 46202  
(317) 635-4059

**RHETT L. TAUBER, ESQ., #807-45**

Tauber Westland & Bennett, P.C.  
1415 Eagle Ridge Drive  
Schererville, IN 46375  
(219) 865-8400

**CERTIFICATE OF SERVICE**

I certify that on the \_\_\_\_ day of September, 2008, service of a true and complete copy of the above and foregoing pleading or paper was made upon each party or attorney of record herein by depositing the same in the United States mail in envelopes properly addressed to each of them and with sufficient first-class postage affixed.

**TAUBER WESTLAND & BENNETT, P.C.**

By: \_\_\_\_\_

7. **Action to approve the special meeting of the Town Council for Tuesday, September 30, 2008, at 7:00 p.m. in order to adopt the budget for FY 2008 and to cancel the regular meeting of October 13, 2008 owing to the Indiana Association of Cities and Towns Conference.**

Councilor Herak moved that there be a special meeting of the Town Council on Tuesday, September 30, 2008 to begin at 8:00 p.m. and that the standing meeting of the Town Council for Monday October 13, 2008 be cancelled. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The motion was adopted.

**Comments from the Town Council Members**

- **Councilor Mark Herak:** *Advisory Board of Zoning Appeals Liaison • Board of Sanitary Commissioners Liaison • Special Events Advisory Committee, Liaison.*

Councilor Herak expressed condolences to the family of Nick Julius, recently deceased. Mr. Julius has served in the late 70s and early 80's on the Town Board of Metropolitan Police Commissioners.

Councilor Herak commended the residents who assisted with sandbagging at the 81<sup>st</sup> Street area during the recent storm event.

Councilor Herak also expressed support for the nearby communities that had experienced severe flooding to neighborhoods and homes.

- **Councilor Dan Vassar:** *Parks and Recreation Board Liaison • Building and Inspection Committee • Plan Commission member.*



Councilor Vassar commended the residents who assisted with sandbagging at the 81<sup>st</sup> Street area during the recent storm event. Councilor Vassar noting some of the basement water problems encountered in association with the recent heavy rain event, expressed his determination to work to bring solutions to improve the storm and sanitary systems of the Town.

- **Councilor Brian Novak:** *Waterworks Board Liaison • Fire Personnel Committee • Lake County Solid Waste Management District Board of Directors • Insurance committee, member.*

Councilor Novak was absent owing to a work commitment.

- **Councilor Konnie Kuiper:** *Town Board of Metropolitan Police Commissioners Liaison • Traffic Safety Commission Member • Chamber of Commerce Liaison.*

Councilor Vassar commended the residents who assisted with sandbagging at the 81<sup>st</sup> Street area during the recent storm event.

- **Councilor Bernie Zemen:** *Town Executive • Police Pension Board of Trustees Chair • Budget Committee Chair • Redevelopment Commission Liaison • Plan Commission member • Insurance Committee, member.*

The Town Council President commended the residents who assisted with sandbagging at the 81<sup>st</sup> Street area during the recent storm event. He also then offered a narrative survey of his activities during the Storm event of September 13-14, 2008.

#### **Comments from the Public for Matters not on the Agenda**

1. Dennis Adams, 8421 Delaware Place, Highland, reported that the home of his daughter, 2843 Ross Street, had experienced basement flooding on September 13, 2006 and again this recent event, September 13-14 2008. Mr. Adams further reported that his property at 9350 Erie Street also experienced water during the storm event. Mr. Adams urged the Town Council to take steps to improve the storm and sanitary sewers.
2. Joe Bartok, 9324 Spring Creek Drive, Highland, noted that the agenda was modified and expressed his disapproval of the change in which the opportunity for public comment on matters on the agenda before they are acted upon had been eliminated.
3. Cy Heuter, 8740 Carolina Avenue, Highland, commended the Town Council for what he called "moving in the right direction" toward correcting the flooding and for its steps that it was taking to correct the current time limitations on displays of political signs.
4. Jim Diehl, 10104 Kennedy Avenue, Highland, commented that he experienced much water on his property and urged the Town Council to take steps to improve the storm and sanitary sewers.
5. Dean Stannis, 9324 Spring Creek Drive, Highland, expressed his opinion that perhaps designing to the so-called 100 year storm may need to be changed based upon the how the recent storms seem to overtake the storm and sanitary systems.
6. Bob Johnson, 3003 100<sup>th</sup> Street, Highland, commented that he experienced sanitary sewage coming into his house with heavy rain four times in the last two years. Mr. Johnson urged the Town Council to take steps to improve the storm and sanitary sewers.

7. Brad Wildman, 2933 Lincoln Street, Highland, reported that the smoke testing recently conducted, had produced smoke into his home. Mr. Wildman reported that he experienced flooding and sanitary sewage in his basement. Mr. Wildman urged the Town Council to take steps to improve the storm and sanitary sewers. Mr. Wildman also inquired about the impact of backflow prevention and whether or not it created more backpressure on those without the protection.
8. Gerald Crowe, 2941 Lincoln Street, Highland, noted that he had experienced this similarly two years ago, following a storm event. Mr. Crowe noted that after the September 2006 storm event the prior Town Council had established a study committee to deal with the cause of the flooding issues that had been then experienced. Mr. Crowe asked if the committee had any follow-up with residents and what if any its output may have been.
9. Mary Zuffa, 9522 Anthony Place, Highland, reported her belief that she was experience additional run-off of storm water from neighbors whose backyards adjoined her backyard. She further reported her belief that the neighbors did not have their sump pumps discharging to the front yard or to a storm sewer. Ms. Zuffa inquired whether or not any ordinance prohibited her experience. She further inquired whether or not a utility bill notification could be authorized telling people that they should not discharge their storm water on neighboring property.
10. John Kutka, 3009-99<sup>th</sup> Street, Highland, reported that the recent storm event represented the third time he had experienced back-up water in his basement. He urged the Town Council to take steps to improve the storm and sanitary sewers.
11. Rick Courtright, 2922 Strong Street, Highland, indicated that during the recent storm event he experienced sanitary sewage in his basement.
12. Kim Reed, 3332 Franklin, Highland, reported flooding in her basement.
13. Joe Bartok, 9324 Spring Creek Drive, Highland, noted that there have been several studies on the watershed issues and urged the Town Council to take steps to improve the storm and sanitary sewers.
14. Joe Wszolek, 3731 42<sup>nd</sup> Place, Highland, noted he served on the Town Council during the September 2006 storm event. Mr. Wszolek offered a narrative regarding the establishment by the 25<sup>th</sup> Town Council of an advisory committee, the selection of an engineering firm to study the storm and sanitary systems, the flow monitoring that ensued and the early determinations that the systems problems issued from inflow and infiltration and has less to do with sizing or capacity of the sewers themselves.

Further, Mr. Wszolek, commenting on a recent newspaper article in which remarks regarding the difficulty in balancing the FY 2009 budget were attributed to the Town Council President , stated that the Town Council President may wish to donate some of his Town Council salary.

Further, Mr. Wszolek then reported that he had delivered and filed a letter with the Clerk-Treasurer reporting his displeasure with the recent modification to the form of the Town Council meeting agenda, in which the opportunity for public comment on matters on the agenda before they are acted upon had been eliminated. Mr. Wszolek then seeking leave to read aloud the letter he had filed, was ruled out of order by the Town Council President. A colloquy ensued between and among Mr. Wszolek, the Town Attorney, The Town Council President, Councilor Vassar and Councilor Herak, regarding basis for the modification to the agenda form, the basis of Mr. Wszolek's objections to the modification.

15. Evelyn Bevis, 3040 Lincoln Street, Highland, referring to the recent water shed issues associated with the recent storm event, expressed her belief that the Town Council should do more than simply smoke testing and inquired about what had been done regarding the sanitary and storm sewer system since the current Town Council had assumed office.
16. Bob Johnson, 3003 100<sup>th</sup> Street, Highland, commented on a recent experience with scavengers taking items from the trash in town, in his experience something that was not even designed for discarding, and urged that the Town Council adopt an ordinance to prohibit scavenging from the trash in Highland.
17. Rod Langel, 2833 Highway Avenue, Highland, expressed his thanks for the Town's quick response during the recent storm event.

**Payment of Accounts Payable Vouchers.** There being no further business from the floor, Councilor Herak moved to allow the accounts payable vouchers as filed on the pending pay docket, covering the period September 9, 2008 through to September 22, 2008. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The accounts payable vouchers were allowed and the clerk-treasurer was authorized to make payment.

**General Fund, \$249,372.25 Motor Vehicle Highway and Street (MVH) Fund, \$18,997.97; Local Road and Streets Fund, \$5,383.97; Law Enforcement Continuing Education, Training and Supply Fund, \$477.51; Information Communications Technology Fund, \$2,269.29; Solid Waste District Grant Fund, \$153.88; Special Events Non Reverting Fund, \$832.48; Building Acquisition Project Fund, \$5,033.24; Municipal Cumulative Capital Development Fund, \$143.00; Safe Neighborhood Grant Fund, \$807.69; Municipal Cumulative Street Fund, \$2,233.00; Total: \$285,704.28.**

**Adjournment.** Councilor Kuiper moved that the meeting be adjourned. Councilor Vassar seconded. Upon a vote, *viva voce*, the motion passed. The regular meeting of the Town Council of Monday, September 22, 2008 was adjourned at 8:31 O'clock p.m.

There was no study session following the meeting.

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer